THE HONOURABLE SRI JUSTICE N.V.RAMANA

Writ Petition No.12234 of 2006

Dated:20th June, 2006

Between:

Mohd. Akbar Khan.

…..PETITIONER

AND

The Regional Manager, A.P.S.R.T.C,
Mahaboobnagar Region, Mahaboobnagar
& another.

….RESPONDENTS

THE HONOURABLE SRI JUSTICE
N.V.RAMANA

W.P.No.12234 of 2006

ORDER:

Assailing the action of the respondents in not paying the gratuity amount to the petitioner for his out of employment period from 05-10-1976 to 28-9-1984 i.e., from the date of removal to the date of reinstatement as illegal, arbitrary, the present writ petition is filed.

The petitioner was appointed as Conductor in the respondent Corporation and subsequently promoted as Deputy Superintendent (T) on 28-12-1998 and retired from service on
31-12-2005. The petitioner while working in the Corporation was removed from service by proceedings dated 05-10-1976 on the charge of cash and ticket irregularities, which was assailed in I.D.No.157 of 1980 and the labour Court by award dated
28-5-1984, ordered for reinstatement into service without back wages and held him to be entitled to all attendant benefits. Pursuant to the award, the petitioner was reinstated into service on 28-9-1984 and continued till retirement. The grievance of the petitioner is that the respondent-Corporation has not paid him gratuity for the period from 05-10-1976 to 28-9-1984 i.e., from the date of removal to the date of reinstatement.

The learned counsel for the petitioner submits that the issue involved in this Writ Petition is squarely covered by a decision of this Court in ***M.Rama Rao Vs. Asst. Traffic Manager, A.P.S.R.T.C, Hyderabad and another***[1] wherein this Court held that in a case

where under Section 11 of the Industrial Disputes Act, 1947, the Labour Court has set aside the order of removal of any employee and directed that the employee be reinstated into service with continuity of service, the management could not deny the payment of gratuity to the employee on his retirement for the period during which he was out of employment as a result of the illegal order of removal. The learned counsel for the respondents also conceded that the present the writ petition is covered by the above said judgment and the petitioner is entitled for the relief sought for.

Heard the learned counsel for the petitioner as also the learned Standing Counsel for A.P.S.R.T.C and perused the order of the labour Court and the judgment relied upon by the learned counsel for the petitioner.

The material on record discloses that the petitioner has not made any representation to the respondents bringing forth the fact that he is entitled for the gratuity for out of employment period in the light of the judgment of this Court in ***M.Rama Rao Vs. Asst. Traffic Manager, A.P.S.R.T.C, Hyderabad and another***. However, taking into consideration the facts, particularly, when there is no appeal is filed against the award of the Labour Court, I deem it appropriate to dispose of the writ petition with a direction as under:

The respondents are directed to consider the case of the petitioner for payment of gratuity taking into account the out of employment period i.e., 5-10-1976 to 28-9-1984 if not already paid as claimed by the petitioner particularly in the light of the above said judgment in ***M.Rama Rao Vs. Asst. Traffic Manager, A.P.S.R.T.C, Hyderabad and another.*** No costs.

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(N.V. RAMANA, J.)

Date:20th June, 2006.

GRK

[1] 1998 (3) ALD 76